

13 SEP 2000



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#7

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In re Application of
KOCKMANN, Jürgen *et al*
Application No.: 09/446,545
PCT No.: PCT/DE97/01740
Int. Filing Date: 30 December 1998
Priority Date: 24 June 1997
Attorney Docket No.: P99,2690
For: METHOD AND ARRANGEMENT FOR
EFFECTIVE RADIO TRANSMISSION
OF DATA

DECISION

This decision is in response to applicants' "Response to Notification of Defective Response" ("Resp.") filed 07 August 2000. No petition fee is required.

BACKGROUND

On 02 March 2000, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 indicating that a declaration in compliance with 37 CFR 1.497(a) & (b) and surcharge was required. A one-month time limit was set for response.

On 30 May 2000, applicants submitted a declaration for the above-captioned application executed by Jürgen Kockmann, Uwe Sydon and Hermann-Josef Terplane as the inventors. Applicants also submitted the surcharge fee pursuant to 37 CFR 1.492(e) and a two-month extension and fee of \$380.00.

On 03 July 2000, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916) and Notification of Defective Oath or Declaration (Form PCT/DO/EO/917) indicating that the declaration filed 30 March 2000 was not in compliance with 37 CFR 1.497. Specifically, the declaration did not properly identify all of the inventors.

On 07 August 2000, applicants submitted the instant response which was accompanied by, *inter alia*, a copy of the declaration submitted 30 May 2000.

DISCUSSION

Applicants argue that the "Notification [dated 03 July 2000] is in error since the inventors are identified by full name, address and citizenship on the executed declaration." Resp. ¶ 4.

A review of international application number PCT/DE97/01740 reveals that there are five persons listed on the international publication as inventors. They are Jürgen Kockmann; Uwe Sydon and Hermann-Josef Terglane who executed the declaration submitted by applicants on 30 May 2000. In addition, Anton Kruk and Peter Schliwa are also listed as inventors on the international publication. These two inventors were not included as inventors in the declaration submitted for the above-captioned application. Further, there is no record of a change in inventorship in the file such that allows Anton Kruk and Peter Schliwa to be deleted as inventors. 37 CFR 1.497 *Oath or declaration under 35 U.S.C. 371(c)(4)*, lists the requirements needed for a declaration entering the national stage in the United States and states, in part:

(a) When an applicant of an international application desires to enter the national stage under 35 U.S.C. 371 pursuant to Section 1.494 or 1.495, he or she must file an oath or declaration that:

(3) Identifies each inventor and the country of citizenship of each inventor; and . . .

(b)(1) The oath or declaration must be made by all of the actual inventors . . .

In this case, it does not appear that all of the actual inventors who were previously listed in the international publication for PCT/DE97/01740 executed the declaration filed 30 May 2000. Thus, the declaration is not in compliance with 37 CFR 1.497.

Applicants are reminded that all of the original inventors must sign the declaration even if the actual claims have changed due to the filing of amendments. The declaration must encompass all of the inventors in the original international application as filed.

CONCLUSION

For the reasons above, applicants' petition is **DISMISSED** without prejudice.

The application is ABANDONED for failing to timely and properly respond to the

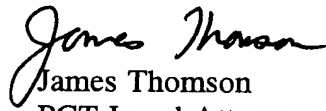
Notification of Defective Response mailed 03 July 2000.

Applicants may wish to consider filing a petition to the Commissioner under 37 CFR 1.137(a) or (b) requesting that the application be revived. A proper reply would include providing an acceptable declaration signed by all of the inventors listed on the international publication.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.



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